

Section 805.5. Activities of Eligible Law Students and Law School Graduates Authorized by Sections 478 and 484 of the Judiciary Law

(a) Law Intern Programs. Any officer or agency of the state, or of a subdivision thereof, or any legal aid organization whose principal office is located within this department, may make application to the Presiding Justice of this Court for an order approving a program, pursuant to Judiciary Law sections 478 and 484, employing or utilizing law students who have completed at least two semesters of law school and eligible law school graduates as law interns to render and perform legal services, to the extent set forth in paragraph (b) hereof, which the officer, agency or organization is authorized to perform. The application shall set forth the purpose of the program, the names, addresses and qualifications of the persons to serve as supervising attorneys, as defined in paragraph (e) hereof, and the anticipated duration of the program; in no event, however, will approval for such a program exceed three years.

(b) Authorized Activities. Law interns are authorized to engage in the following activities:

(1) in the Appellate Division, Third Department, to prepare briefs and memoranda of law when under general supervision of a supervising attorney;

(2) in criminal matters, in superior courts, when under immediate supervision, to render legal services at arraignments, bail applications, pleas, sentencings, preliminary hearings and post-conviction proceedings, including appeals;

(3) in criminal matters, in local criminal courts, when under immediate supervision, to render legal services at arraignments, bail applications, pleas, sentencings, preliminary hearings, post-conviction proceedings and trials;

(4) in noncriminal vehicle and traffic matters, in local criminal and justice courts, when under general supervision of a supervising attorney, to render legal services at arraignments, conferences, appearances, pleas and trials;

(5) in family court, when under immediate supervision, to render legal services on motions and in contested matters, and, when under general supervision of a supervising attorney, in uncontested matters;

(6) in other civil actions and proceedings in or before any court or administrative agency, when under immediate supervision, to render legal services on motions and in contested matters, and, when under general supervision of a supervising attorney, in uncontested matters. Appearances before federal courts and state and federal administrative agencies shall be subject to the rules and regulations of the particular court or agency involved.

(c) Requirements and Limitations. A law intern may appear in the courts and administrative agencies specified in paragraph (b) above if the person on whose behalf the intern is appearing and the supervising attorney have indicated in writing their consent to the appearance. The consents referred to shall be filed with and brought to the attention of the presiding officer of the court or administrative agency. Pleadings, legal documents, briefs and memorandums shall be endorsed by the supervising attorney and may contain the name of the law intern who participated in their preparation.

(d) Limitations on Legal Aid Organizations. Law students who have completed at least two semesters of law school and law school graduates engaged as law interns in a legal aid organization whose principal office is located in this department shall be authorized to render legal services to and represent only persons who are financially unable to pay for legal services and are eligible to qualify for free legal services in accordance with the standards and guidelines of the organization or program in which they are engaged. A law intern shall neither ask for nor receive any compensation or remuneration for services from the party on whose behalf the services are rendered.

(e) Supervision. A supervising attorney shall be the head of the department, agency or legal aid organization making the application, or his or her designee, shall be duly admitted to practice in this state and in good standing, and shall have, within 10 years immediately preceding the application, at least two years of actual practice in this state. The supervising attorney shall assume personal professional responsibility for any work undertaken by a law intern and shall supervise the preparation of the intern's work. Immediate supervision of a law intern shall mean that the supervising attorney shall be personally present throughout the proceedings. In the discretion of the Presiding Justice and upon a showing of good cause, including equivalent experience in a foreign jurisdiction, the requirement that a supervising attorney have at least two years of actual practice in this state may be waived.

(f) Eligibility. A law student who has completed at least two semesters of law school or a law school graduate may be employed to render legal services, as authorized herein, until he or she shall have been admitted to the bar or notified that he or she failed the New York State bar examination which was given immediately following graduation from law school. A person who shall fail to pass that examination but shall apply to take the next available New York State bar examination remains eligible; eligibility ceases, however, upon notification that a person has failed two bar examinations.